UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,632	08/30/2001	Kevin Reid Imes		9679

7590 11/29/2006

Kevin R. Imes
2001 So. Mopae # 624
Austin, TX 78746

EXAMINER	
AGGARWAL, YOGESH K	

ART UNIT	PAPER NUMBER
2622	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/943,632	IMES, KEVIN REID	
	Examiner	Art Unit	
	Yogesh K. Aggarwal	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 2-36 is/are pending in the application.

4a) Of the above claim(s) 12-36 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 2-11 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Election/Restrictions

1. Newly submitted claims 12-27 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons. Newly-added dependent claims 12 and 13 recite features of Species VI (figure 8) respectively and only specie I was elected. For example claims 12 and 13 recite limitations an image sensor operable to be enabled upon a process being selected and processor operable to activate the process prior to capturing the digital image. These steps are shown in steps 801 and 802 of figure 8.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 12-27 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. Applicant's election with traverse of species 1 associated with figure 3 is acknowledged. The traversal is on the ground(s) that the subject matter of all species is sufficiently related that a thorough search for the subject matter of any one species would encompass a search for the subject matter of the remaining species. This is not found persuasive because the non-elected species contain features, which would not be included in a class/subclass search or text search for the elected species.

However, the applicant is reminded that upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The requirement is still deemed proper and is therefore made FINAL.

Response to Arguments

3. Applicant's arguments with respect to claims 2-11 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 2-4, 6, 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Parulski et al. (US Patent # 6,573,927).

[Claims 2, 3, 6 and 9]

Parulski teaches a portable electronic device (e.g. Kodak DC25, col. 1 lines 29-30 is a portable camera) operable to record digital images comprising

an image input sensor (figure 1a, CCD 20) operable to record a digital image (col. 2 lines 56-63);

a memory (32 or 36) operable to store the digital image and a process characteristic associated with at least one destination (col. 3 lines 5-29);

a processor (microprocessor 29) coupled to the memory (32 or 36) and operable to determine a destination and an associated process characteristic, the processor operable to process the digital image using the process characteristic associated with the destination (col. 3 line 25-col. 4 line 8 teach associating different sizes of the images like 4x6 or 8x10 along with the destination

addresses in a utilization file, Also see appendix 1 provided on columns 5-8 and the memory stores all the information into a utilization file); and

a communication module (28 or 30) operable to communicate the processed digital image to the destination (col. 4 lines 9-16, wireline or wirelessly).

[Claim 4]

Parulski teaches two different sizes of the images like 4x6 or 8x10 wherein the process characteristic i.e. size 4x6 comprises a compression size characteristic of the 8x10 size.

[Claim 7]

Parulski teaches wherein the processor operable to determine plural processes to associate with the digital image and associate a plural processing reference with the digital image; and the communication module operable to communicate the plural processing reference and the digital image to the destination (col. 3 line 25-col. 4 line 8 teach associating different sizes of the images like 4x6 or 8x10 along with the destination addresses in a utilization file read as a plural processing reference with the digital image and col. 4 lines 9-16 teach communicating the utilization file via the communication module 28).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. (US Patent # 6,573,927) in view of Anderson (US Patent # 6,567,122).

[Claim 5]

Parulski fails to teach wherein the memory operable to store a reference to a markup language based template associated with the destination; and the processor operable to incorporate the digital image as a part of the template prior to communicating to the destination.

However Anderson teaches that when accessed by the user's browser, the digital camera transmits HTML (hyper text mark-up language) document files for its web page and in step 1108, the user accesses the images stored within the digital camera via the web pages received from the web server application 910 hosted within the digital camera (col. 15 lines 15-26, figure 11). Anderson also teaches that the images are stored in the camera's memory (col. 14 lines 60-62). It would be inherent that there is an address stored along with the images in order to send the images to a destination.

Therefore it would be obvious to one skilled in the art at the time of the invention to have been motivated to have store a reference to a markup language based template associated with the destination; and the processor operable to incorporate the digital image as a part of the template prior to communicating to the destination in order to send the images via internet to another website directly through the camera.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. (US Patent # 6,573,927) in view of Ishiguro et al. (US Patent # 7,062,230).

[Claim 8]

Parulski teaches a wireline communication module operable to communicate the digital image and a process reference; a wireless communication module operable to communicate the digital

image and the process reference (col. 4 lines 9-16 teach wireline or wirelessly communicating the utilization file via the communication module 28).

Parulski fails to teach wherein the processor operable to determine an availability of a network associated with the wireline communication module and the wireless communication module, the processor operable to communicate the digital image to the destination in response to the availability.

However Ishiguro teaches an image storage control unit (CPU 161) that controls transfer of image data, and is operable in a communication mode, to automatically transfer the image data via a communication circuit capable of communicating with the external device to store the image data in the external device (col. 5 lines 31-42, col. 7 line 46-col. 8 line 67, figure 2), and when communication with the external device is disabled, to transfer the image data generated by the image sensor to the memory so that the operation member can be operated to cause the image sensor to capture a next subject image (col. 13 lines 10-56, figure 9). Ishiguro teaches to transfer the image data to the external device when the communication is enabled (col. 13 lines 54-56). Ishiguro teaches radio waves and are wireless (col. 16 lines 13-15) but would be obvious to one skilled in the art to use the same method to a wired communication. Wired communication is taught in Parulski.

Therefore taking the combined teachings of Parulski and Ishiguro, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have processor operable to determine an availability of a network associated with the wireline communication module and the wireless communication module, the processor operable to communicate the digital image to the destination in response to the availability in order to

transfer the images only when the network is enabled thereby ensuring reliable transmission of images.

8. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. (US Patent # 6,573,927), Ishiguro et al. (US Patent # 7,062,230) and further in view of Ichihara (US Patent # 6,977,680).

[Claim 10]

Parulski teaches the application operable to store the digital image within a storage medium associated with the localized processing system (col. 3 lines 5-29). Parulski fails to teach determine an availability of a network for communicating the digital image to a destination; establish communication with the destination; communicate the digital image based on the availability; and delete the digital image from the storage medium of the localized processing system upon communicating the digital image to the destination.

However Ishiguro teaches an image storage control unit (CPU 161) that controls transfer of image data, and is operable in a communication mode, to automatically transfer the image data via a communication circuit capable of communicating with the external device to store the image data in the external device (col. 5 lines 31-42, col. 7 line 46-col. 8 line 67, figure 2), and when communication with the external device is disabled, to transfer the image data generated by the image sensor to the memory so that the operation member can be operated to cause the image sensor to capture a next subject image (col. 13 lines 10-56, figure 9). Ishiguro teaches to transfer the image data to the external device when the communication is enabled (col. 13 lines 54-56).

Therefore taking the combined teachings of Parulski and Ishiguro, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have determine an availability of a network for communicating the digital image to a destination; establish communication with the destination; communicate the digital image based on the availability in order to transfer the images only when the network is enabled thereby ensuring reliable transmission of images.

Parulski in view of Ishiguro fail to teach deleting the digital image from the storage medium of the localized processing system upon communicating the digital image to the destination. However Ichihara teaches an image data processing device (figures 3 and 4, camera 30), comprising processing device (CPU 30) that acquires image (col. 5 lines 15-37); a transmission device (communication apparatus 35) that transmits at least image data to an external storage device (hard disk 41, col. 5 lines 38-41), an internal storage device (36) and causes said internal storage device to store said basic image data and simplified image data, and to delete image from the internal storage device after the transmission device has transmitted the image data to the external storage device (col. 5 lines 45-49, col. 5 line 66-col. 6 line 22).

Therefore taking the combined teachings of Parulski, Ishiguro and Ichihara, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have delete the digital image from the storage medium of the localized processing system upon communicating the digital image to the destination in order to have memory for taking new images thereby not missing a chance to photograph a new image.

[Claim 11]

Parulski teaches process application operable to determine plural destinations and to communicate the digital image to the plural destinations (col. 4 lines 17-27).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571)-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YKA
November 25, 2006

VIVEK SRIVASTAVA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600